



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Metrox Inc.
File: B-235618
Date: August 21, 1989

DIGEST

Protest concerning award of contract on a sole-source basis is dismissed as untimely when filed more than 10 working days after protester knew or should have known basis of protest.

DECISION

Metrox Inc. protests the Air Force's sole-source award of contract No. F41608-89-C-1100 to General Electrodynamics Corp. (GEC) for 18 platform weighing scales for the B-1B and F-16 aircrafts. Metrox contends that it is a qualified source for these scales.

We dismiss the protest as untimely.

The sole-source award to GEC was published in the Commerce Business Daily (CBD) on April 19, 1989. We have held that publication in the CBD constitutes constructive notice of a procurement. S.T. Research Corp., B-232751, Oct. 11, 1988, 88-2 CPD ¶ 342. Therefore, Metrox, by virtue of the April 19 CBD notice, is charged with knowledge of the award. Pro-Tem, B-231087, Apr. 29, 1988, 88-1 CPD ¶ 427. Our Bid Protest Regulations require that a protest be filed not later than 10 working days after the basis of protest is known or should have been known, whichever is earlier. 4 C.F.R. § 21.2(a)(2) (1988). Metrox initially protested the sole-source award to the Air Force on May 12 and subsequently filed a protest with our Office on May 22. However, to be timely, Metrox was required to file its protest on or before May 3 with the agency or our Office. Since its protest to the agency was untimely filed, we will not consider the subsequent protest to our Office. 4 C.F.R. § 21.2(a)(3).

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Metrox contends that its protest should be considered timely because the CBD notice did not provide sufficient information concerning the contract awarded to GEC. Metrox states that it did not know the basis of its protest until it had received a copy of GEC's contract from the Air Force in response to Metrox's Freedom of Information Act request. We disagree. The basis of Metrox's protest is that the Air Force made a sole-source award to GEC, and Metrox had constructive notice of the award on April 19 and was required to file its protest within 10 working days of this date.

The protest is dismissed.

A handwritten signature in black ink, appearing to read 'R. Strong', is written over a horizontal line.

Robert M. Strong
Associate General Counsel